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November 1, 2024

**VIA ACMS**

Molly C. Dwyer  
Clerk of Court  
United States Court of Appeals for the Ninth Circuit  
The James R. Browning Courthouse  
95 Seventh Street  
San Francisco, CA 94103

**Re: Citation of Supplemental Authority in connection with Cross-  
Appeals in *Cheri Poe v. The Northwestern Mutual Life Insurance  
Company*, Case Nos. 23-3124, 23-3243 (9th Cir.)**

Dear Ms. Dwyer:

I represent Defendant, Appellee and Cross-Appellant The Northwestern Mutual Life Insurance Company in the above-referenced Cross-Appeals. Pursuant to Fed. R. App. P. 28(j), I write to advise the Court of a pertinent recent development in connection with an order cited by Plaintiff, Appellant and Cross-Appellee Cheri Poe in briefing filed with the Court. Specifically, Plaintiff cited *passim Lee v. Great American Life Insurance Co.*, No. 5:20-cv-01133-SPG-SHK, 2024 WL 3931089 (C.D. Cal. Aug. 20, 2024) in the Cross-Appeal Third Brief (Dkt. No. 87).<sup>1</sup>

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<sup>1</sup> Docket entry references herein are to the docket entry numbers in Case No. 23-3124.

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Page 2

Defendant subsequently discussed the *Lee* order in the Cross-Appeal Reply Brief (Dkt. No. 94) at pages 17, 20, 21 and 22.

By Order dated October 24, 2024, the Court granted the *Lee* defendant's Fed. R. Civ. P. 23(f) petition for permission to appeal the district court order cited by Plaintiff herein. *See* Ex. A. Pursuant to a docketing notice dated October 29, 2024, the Court has assigned docket number 24-6617 to the *Lee* appeal. *See* Ex. B. The citation to the *Lee* order is now *Lee v. Great American Life Insurance Co.*, No. 5:20-cv-01133-SPG-SHK, 2024 WL 3931089 (C.D. Cal. Aug. 20, 2024), *appeal docketed*, No. 24-6617 (9th Cir. Oct. 29, 2024).

Respectfully submitted,

*/s/ Timothy J. O'Driscoll*

Timothy J. O'Driscoll  
*Counsel for Defendant, Appellee and Cross-Appellant*  
*The Northwestern Mutual Life Insurance Company*

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